

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1310

CA 16-00548

PRESENT: WHALEN, P.J., CENTRA, LINDLEY, DEJOSEPH, AND SCUDDER, JJ.

WORKERS' COMPENSATION BOARD OF STATE OF NEW YORK,
PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

OLD LAMSON STATION, INC., DEFENDANT-APPELLANT.

D.J. & J.A. CIRANDO, ESQS., SYRACUSE (JOHN A. CIRANDO OF COUNSEL), FOR
DEFENDANT-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (FREDERICK A. BRODIE OF
COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Oswego County (James W. McCarthy, J.), entered June 16, 2015. The order denied the motion of defendant to vacate a money judgment.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: Defendant appeals from an order that denied its motion to vacate a judgment against it that was entered by plaintiff pursuant to Workers' Compensation Law § 26. The record establishes that, pursuant to its authority under section 26, plaintiff unilaterally vacated the challenged judgment prior to Supreme Court's denial of defendant's motion. We therefore conclude that the appeal is moot inasmuch as defendant "is no longer aggrieved by the [judgment]" (*Matter of McGrath*, 245 AD2d 1081, 1082), and defendant failed to establish that this case falls within the exception to the mootness doctrine (*see generally Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715).

Entered: February 3, 2017

Frances E. Cafarell
Clerk of the Court